

## **REMARKS**

As an initial matter, Applicant and the undersigned wish to thank the Examiner for withdrawing the rejection of Claims under 35 USC §112, first paragraph. Applicant also wishes to thank the Examiner for stating that Claims 41 and 42 are allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims.

Claims 33-43 are pending in this Application. Claims 33 and 43 have been amended by incorporating the limitations of Claim 41. These amendments are made solely for the purpose of expediting the prosecution of this Application. Applicant expressly reserves the right to file a continuation application directed to claims without incorporating the limitations of Claim 41. New Claims 44-51 have been added, which are similar in scope to Claims 34-40, and 42, respectively. Upon entry of this Amendment and Response, Claims 33-40 and 42-51 will be pending in this Application.

### **Objection: Drawing Figure/Specification**

Figure 1 is objected to because "the time interval stated in Figure 1 is not stated in the specification." Page 4 of the Office Action.

Figure 1 has been deleted and the specification has been amended accordingly, thereby rendering this objection moot.

### **Double Patenting Rejection**

Claims 33-43 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 29-46 of copending Application No. 12/051,373.

Applicant respectfully requests that this issue be deferred until an allowable subject matter is indicated at which time an appropriate Terminal Disclaimer will be filed.

### **Rejections Under 35 U.S.C. §§102(b) and 103(a)**

Claims 33, 36, 40, and 43 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 5,346,886, issued to Lezday.

Claims 33-40 and 43 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 6,124,257, issued to Lezday, and U.S. Patent No. 5,780,440, issued to Lezday, in view of U.S. Patent No. 5,187,089, issued to Scott et al. and Baker et al., 1997.

Without even commenting on the merits of these rejections, and Applicant expressly reserves the right to dispute these rejections in a continuation application, amendments to Claims 33 and 43 incorporating the limitations of Claim 41, which the Examiner has indicated to be allowable if rewritten in independent form by incorporating all the limitations of the base claim and any intervening claims, render these rejections moot.

### **CONCLUSION**

In view of the foregoing, Applicant submits that all claims now pending in this Application are in condition for allowance. Therefore, an early Office Action to that effect is earnestly solicited. If the Examiner believes a telephone conference would aid in the prosecution of this case in any way, please call the undersigned at (303) 955-8103.

Respectfully submitted,

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